

# **EXHIBIT 33**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION  
4

5 IN RE: NATIONAL PRESCRIPTION )  
6 OPIATE LITIGATION ) MDL NO. 2804  
7 -----) HON. DAN A. POLSTER  
8 THIS DOCUMENT RELATES TO ) Case No. 1:17-md-2804  
9 ALL CASES )  
10 -----)

11  
12 HIGHLY CONFIDENTIAL  
13 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW  
14

15 The videotaped 30(b)(6) deposition of H.D.  
16 SMITH by and through GEORGE EUSON, called for  
17 examination, taken pursuant to the Federal Rules of  
18 Civil Procedure of the United States District Courts  
19 pertaining to the taking of depositions, taken before  
20 JULIANA F. ZAJICEK, a Registered Professional Reporter  
21 and a Certified Shorthand Reporter, at the offices of  
22 Brown, Hay & Stephens, LLP, Suite 800, 205 South Fifth  
23 Street, Springfield, Illinois, on November 27, 2018,  
24 at 9:13 a.m.

1 Q. And -- and you can go ahead and finish it?

2 A. "And we at H.D. Smith hope to work in  
3 collaboration with the DEA to help address the  
4 issues."

5 Q. That seems to be a larger reference than  
6 just the pharmacy customers the DEA identified  
7 prescribing issues in Florida.

8 Do you know whether or not those concerns  
9 are what informed Chris Smith's decision to no longer  
10 sell oxycodone in Florida?

11 A. I believe that what they were referencing  
12 was the issue with pain clinics, the proliferation of  
13 pain clinics in Florida. We never sold directly to  
14 pain clinics, but prescriptions that were written by  
15 those pain clinic doctors would have filtered out and  
16 been filled by some of our customers. So -- and the  
17 reason why we, you know, were insistent on looking at  
18 prescription data, so that we could identify doctors  
19 that may have questionable prescribing habits that  
20 would be filled at our pharmacies.

21 Q. You had access to the data to be able to  
22 identify the providers that were writing the  
23 prescriptions?

24 A. Sometimes we did, sometimes we didn't.

1 We -- we could not go in to a pharmacy and look at  
2 prescriptions, that's a HIPAA violation.

3 Q. Would a DUR report contain the prescriber  
4 DEA number?

5 A. It depended. At this time -- it depends  
6 on the timing.

7 Q. In -- in 2010?

8 A. Sometimes a pharmacy could give us that  
9 information, sometimes it was not easy to discern the  
10 prescriptions or the combinations. We could get a  
11 list of doctors that they were filling for, but not  
12 the detail. Some pharmacies were able to give that to  
13 us, some only gave us utilization reports that didn't  
14 have any doctor information on it and we had to ask  
15 them and hope that they were telling us the truth  
16 because we didn't have access to those records.

17 Once we were a -- you know, able to get  
18 Pro Compliance reports, that does identify the doctor  
19 that prescribes by prescription and that de-identifies  
20 any of the HIPAA information so there is no HIPAA  
21 violations.

22 Q. Were these issues isolated in a particular  
23 geographic region of Florida or was it just endemic to  
24 Florida?